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8 The Ivy Coach, Inc.

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11
12 THE IVY COACH, INC., a New
13 York Corporation,

14 Plaintiff,

15 vs.

16 COLLEGE-CONNECTIONS,
17 INC., a California Corporation,
18 JEANNIE BORIN, an Individual,
19 TIER ONE TUTORS, INC., a
20 California Corporation, and DOES
21 1 through 100, inclusive,

22 Defendants
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CASE NO: 2:17-CV-4886

COMPLAINT FOR:

1. **DIRECT COPYRIGHT INFRINGEMENT, 17 U.S.C. §101, et seq.;**
2. **VIOLATION OF THE DIGITAL MILLENNIUM COPYRIGHT ACT, 17 U.S.C. §1202, 1203; and**
3. **VICARIOUS COPYRIGHT INFRINGEMENT, 17 U.S.C. §101, et seq.**

REQUEST FOR JURY TRIAL

1
2 The Ivy Coach, Inc. (“Ivy Coach”) hereby alleges as follows:

3 **NATURE OF THE ACTION**

- 4 1. Ivy Coach is a private college admissions counseling company serving
5 college-bound students from North America and around the world.
- 6 2. On or about August 13, 2004, Ivy Coach’s owner, Bev Taylor (“Taylor”)
7 wrote and published a detailed article entitled “*How Applications are*
8 *Evaluated and Decisions are Made*” (the “Original Article”) in which Ivy
9 Coach and Taylor detailed their unique, original and proprietary model for
10 advising students facing the often daunting task of creating the best possible
11 college application package. The Original Article featured prominently the
12 following Copyright Management Information¹: “By Bev Taylor” “Copyright
13 (c) 2004, Ivy Coach, Inc.,” and “ALL RIGHTS RESERVED.” A true and
14 correct copy of the Original Article is attached hereto and incorporated
15 herein as Exhibit “A.” The Original Article was authored by Taylor as a
16 work for hire specially commissioned by, and prepared for, Plaintiff Ivy
17 Coach. Ivy Coach was and is at all times the copyright owner of the
18 Original Article.
- 19 3. The Copyright Registration for the Original Article by Ivy Coach was filed
20 and processed prior to the date of filing this Complaint.
- 21 4. Ivy Coach’s intended purposes for commissioning and publishing the
22 Original Article were (a) to detail the unique twelve-point college consulting
23 methodology (the “Ivy Coach Method”) it employs with its clients while
24 rendering consulting services and (b) to solicit the Original Article’s readers
25 to contact Ivy Coach should they desire private college counseling services
26 and wish to implement the Ivy Coach Method in the college admissions

27
28 ¹ “Copyright Management Information” shall be defined in accordance with its
definition in THE LANHAM ACT § 43(a), 15 U.S.C. § 1125(a) and 1202(c)(1)-(3), (6).

1 process. Ivy Coach has always sought to separate itself from its competition
2 and its creation, promotion, and commercial use of the Ivy Coach Method
3 has set it apart from its competitors and provides it with a competitive
4 advantage.

5 5. Defendants College-Connections, Inc. (“College-Connections”), Jeannie
6 Borin (“Borin”) and Tier One Tutors, Inc. (“Tier One”) are direct
7 competitors of Ivy Coach and Taylor in the private college admissions and
8 test prep tutoring advisory business.

9 6. Commencing on or about February 16, 2016, College-Connections and
10 Borin infringed Ivy Coach’s copyright in and to the Original Article by: (a)
11 intentionally creating a copy of the Original Article (the “Copied Article”)
12 with the exact same text without Ivy Coach’s authority or permission; (b)
13 entitling the Copied Article with the identical title as the Original Article:
14 “How Applications are Evaluated and Decisions are Made;” *and* (c)
15 intentionally and knowingly publishing the Copied Article for commercial
16 advertising purposes after having removed Ivy Coach’s Copyright
17 Management Information and failing to provide Ivy Coach or Bev Taylor
18 with any creator attribution. Each of these acts and omissions were
19 committed as part of College-Connections and Borin's advertising and
20 marketing campaign to solicit new clients.

21 7. Defendants College-Connections and Borin then colluded with Tier One,
22 and others, to continue the aforementioned copyright infringement for
23 commercial purposes, with each deriving profits and other commercial
24 benefits therefrom. Ivy Coach has been damaged, and each of College-
25 Connections, Borin and Tier One have been unjustly enriched, by each of
26 their various acts or omissions as alleged herein.

JURISDICTION AND VENUE

8. This is a civil action seeking damages and injunctive relief for copyright infringement under the Copyright Law of the United States (17 U.S.C. §§ 101 et seq.), and the Digital Millennium Copyright Act (17 U.S.C. §§ 512 et seq.). The Court has subject matter jurisdiction over this action by virtue of the provisions of 28 U.S.C. Section 1332, in that there is complete diversity of citizenship between the parties and the amount in controversy exceeds the sum of \$75,000 exclusive of interest and costs.
9. This Court has jurisdiction of this action under 17 U.S.C. §§ 101 et seq. (Copyright Claims) and 28 U.S.C. §§ 1338(a) and (b).
10. This Court has personal jurisdiction over defendants in that defendants reside in and/or are doing business in the State of California and in this District. In addition, many of the acts of infringement and unfair competition complained of herein occurred in the State of California and in this District.
11. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c).

AVERMENTS COMMON TO ALL COUNTS

THE PARTIES

12. The Ivy Coach, Inc. ("Ivy Coach") is a corporation duly organized and existing under the laws of the State of New York, with its principal place of business in New York City, New York. It is duly qualified to, and in fact does, transact business in Los Angeles, California. Bev Taylor ("Taylor") is, and at all times relevant hereto was, an employee of Ivy Coach.
13. Defendant College-Connections, Inc. ("College-Connections") is a corporation duly organized and existing under the laws of the State of California, with its principal place of business in Los Angeles, California. It is duly qualified to, and in fact does, transact business in Los Angeles, California.

1 14. Defendant Jeannie Borin (“Borin”) is an individual and employee and/or
2 owner of Defendant College-Connections, residing and transacting business
3 in Los Angeles, California.

4 15. Defendant Tier One Tutors, Inc. (“Tier One”) is a corporation duly organized
5 and existing under the laws of the State of California, with its principal place
6 of business in Los Angeles, California. It is duly qualified to, and in fact
7 does, transact business in the State of California.

8 16. The true names and capacities, whether individual, corporate, associate, or
9 otherwise, of all defendants sued herein as Does 1 through 100, are unknown
10 to plaintiffs, who therefore sue said defendants by such fictitious names. Ivy
11 Coach will seek leave of Court to amend this Complaint to state their true
12 names and capacities when the same have been ascertained. Ivy Coach is
13 informed and believes and on that basis alleges that said defendants are liable
14 to plaintiffs as a result of their participation in all or some of the acts
15 hereinafter set forth.

16 17. Ivy Coach is informed and believes and on that basis alleges that at all times
17 mentioned in this Complaint, each of the defendants was (a) the agent,
18 servant, employee, partner, joint venturer, or surety of each and all of the
19 other defendants unless otherwise specified, *and* (b) acting within the scope
20 of this agency, employment, partnership, joint venture, or suretyship and
21 with the knowledge, consent or ratification of each of the other defendants in
22 taking the acts or omissions alleged herein. Unless otherwise specified, the
23 word “Defendant” shall be used herein to refer to all defendants (including
24 those named as Does 1-100) in this action jointly and severably.

25 **THE IVY COACH METHOD**

26 18. Taylor founded Ivy Coach in the early 1990’s, and has been a respected
27 leader in the field of college advisory services ever since.
28

1 19. Taylor and Ivy Coach revolutionized the college advising industry by
2 creating and implementing unique, first-of-their-kind counseling
3 methodologies that afford college applicants a distinct advantage in
4 achieving admission to the universities of their choice. Ivy Coach is and has
5 always been a commercial business that operates separate from the client-
6 applicant's "in house" high school college adviser. Through Taylor's hard
7 work, Ivy Coach is now considered one of the most successful and well-
8 respected college advising companies not only in the North America, but
9 throughout the world.

10 20. While the college admissions counseling industry was once controlled
11 exclusively by high school-supplied counselors, private college admissions
12 counseling has evolved into a global business. With the advent of web-based
13 communication in the last 20 years, the college admissions counseling
14 business has become a national and international business. Companies like
15 Ivy Coach, with its principle place of business in New York City, and
16 College-Connections, with its principle place of business in Los Angeles,
17 California, can work not only with clients living in North America, but
18 around the world. Yet, the competition for highly coveted clients willing and
19 able to pay for private college admissions counseling has always been tough
20 and the companies involved in the business have become quite competitive.

21 21. While much of Ivy Coach's business has been driven by word of mouth from
22 other college admissions professionals familiar with the Ivy Coach Method,
23 or satisfied former students (and their parents) who successfully worked
24 with Ivy Coach to implement the Ivy Coach Method to their advantage,
25 since the advent of the Internet and "editorial marketing," Ivy Coach became
26 a pioneer in publishing articles that are not only informative, but that are
27 also designed to advertise and solicit prospective students and their parents
28

1 to contact Ivy Coach for consulting services. These articles are often
2 referred to as “Advertorials” or “Native Advertising.”

3 22. Using the power of the newly popularized Internet as early as 1998, Taylor
4 and Ivy Coach began publishing articles, editorials and other original written
5 materials that explained or highlighted the Ivy Coach Method in order to de-
6 mystify the complex process of college admissions, and to provide contact
7 information with links to the Ivy Coach web-site at www.ivycoach.com and
8 Taylor’s email in order to solicit clients to contact them directly for paid
9 college counseling services.

10 23. Over the last twenty years, Ivy Coach has spent a significant amount of time,
11 money and corporate resources advertising, promoting and publicizing its
12 unique strategies reflected in its original twelve-part Ivy Coach Method.

13 24. The purpose of the Original Article, entitled “*How Applications Are*
14 *Evaluated and Decisions are Made,*” was to explain the Ivy Coach Method.
15 The Ivy Coach Method as outlined in the Original Article comprises a
16 comprehensive set of specific strategies in twelve specific areas of focus: (1)
17 Academic Criteria (Academic Success in High School); (2) Talent (Unique
18 to Student); (3) Legacy (Connections); (4) Ethnicity (Diversity); (5)
19 Geographic - A student from Nebraska may be the only one applying to
20 Dartmouth College and if the admissions counselors at Dartmouth are
21 looking to form a freshmen class of students representing all fifty states, that
22 student will have an edge in the admissions process; (6) Socioeconomic; (7)
23 Early Decision / Early Action; (8) Interest Quotient (IQ) (a specific term
24 coined by Bev Taylor); (9) Declared Major; (10) Activity Record; (11) The
25 Interview; and (12) Essays. Ivy Coach’s success over the years has been
26 driven by its requirement that its students (and their parents) work within the
27 Ivy Coach Method to enable the applicant to evolve from a set of grades and
28

1 scores into a singularly talented, fully-prepared and (hopefully) successful
2 college applicant.

3 25. Whether it was posting blogs, publishing articles for college counseling
4 newsletters, admissions websites, newspapers, or magazines, Ivy Coach
5 sought to harness the power of the web and other publishing outlets to
6 promote and advertise its success with the Ivy Coach Method to clients in
7 local, national and international markets. Ivy Coach did what many other
8 business and professional consultants have done for years, it solicited
9 publication of its articles by news outlets and websites frequented by a
10 specific target demographic — eager college bound students and their
11 equally anxious parents. In addition to publishing articles on the Ivy Coach
12 website blogs, Ivy Coach published materials in, without limitation, The
13 Huffington Post, Unigo, Peterson's, and Varsity Tutors.

14 26. By writing and publishing, Ivy Coach carefully and painstakingly built its
15 online promotional brand. Its reputation benefited from this outreach and
16 the Ivy Coach Method became a successful and well known marketing tool
17 for Ivy Coach and Taylor. While positive word-of-mouth reviews kept
18 "friends of friends" coming to Ivy Coach, its editorial publishing efforts
19 promoting the Ivy Coach Method brought Ivy Coach many new clients who
20 would reach the company directly based on the affixed Copyright
21 Management Information and other contact information for Ivy Coach and
22 Taylor included in, or affixed to, each article.

23 27. Ivy Coach became a global business, capable of working with students and
24 parents via Skype, Internet, email and telephone from anywhere in the
25 world. While there were many competitors, Ivy Coach never compared
26 itself to anyone, never copied other companies' strategies, and never
27 challenged or critiqued any other college advisor's style or marketing
28 strategies. Ivy Coach sought to be known as an original voice in a

1 competitive sea of college advisors who just “processed” applications. Ivy
2 Coach’s reputation grew along with its success in tailoring its Ivy Coach
3 Method to each student’s specific needs and attributes.

4 28. On or about August 14, 2004, as part of the above-referenced process of
5 building and promoting its brand, Ivy Coach published the Original Article
6 on its website www.ivycoach.com (the “Ivy Coach Website”). The Original
7 Article was written and specially prepared as a “work for hire” for Ivy
8 Coach by its author Taylor. The Original Article laid out, with specific
9 headings, the twelve-point Ivy Coach Method and the details of the college
10 admissions consulting model implemented by Ivy Coach as part of its day-
11 to-day business model.

12 29. As with all articles published by Ivy Coach on its Ivy Coach Website, or
13 elsewhere, at the end of the article as it appeared on screen, or as printed,
14 was a direct link to Ivy Coach’s website and Taylor’s email and other direct
15 contact information. The publication of the Original Article prominently
16 featured the following Copyright Management Information: “Copyrighted
17 (c) 2004, by Ivy Coach, Inc. ALL RIGHTS RESERVED” and listed its
18 publication date (August 14, 2004) and author (Bev Taylor).

19 30. The Original Article, its title, its author credit, and the aforementioned
20 Copyright Management Information were published on the Ivy Coach’s
21 website, which was accessible by anyone with access to the internet
22 including Defendants. The Original Article has been “live” on the Ivy
23 Coach Website, and accessible to anyone with internet access, ever since.

24 31. Rather than spend the time and resources to devise unique consulting
25 strategies, write and publish original editorial marketing materials, and
26 submit such articles to well-respected newspapers, blogs and websites
27 known to attract educated, college bound students, Defendants College-
28 Connections and Borin elected to copy, and market as their own, both the

Ivy Coach Method, and the published written expression thereof in the form of the Original Article. In doing so, they sought to pass off the contents of the Original Article as their own creation.

32. It was well known in the college consulting community that Ivy Coach was a market leader. So, if Ivy Coach's articles were driving new clients to Ivy Coach, Defendants College-Connections and Borin likely assumed if they copied and published Ivy Coach's materials verbatim, removed Ivy Coach's Copyright Management Information indicating they were the rightful copyright owner and author, replaced Ivy Coach/Taylor's social media contacts with their own, and inserted College-Connections as copyright owner and Borin as author — they could cheaply and quickly divert many potential clients from Ivy Coach to College-Connections.

33. Commencing in or about 2007, Defendants College-Connections and Borin's copying Ivy Coach's copyrighted works began in earnest — and it continues to this day.

34. In or about December 2006 and January 2007, Ivy Coach discovered that College-Connections had copied specific, unique, copyrighted elements from the "description of services" pages on the Ivy Coach Website, and included them verbatim onto the College-Connections website.

35. On or about February 13, 2007, Ivy Coach notified Defendants College-Connections and Borin in writing of these copyright violations and, assuming they would not occur again and reserving all rights, decided to let the matter go. But, in 2012 Ivy Coach once again found several new instances in which College-Connections and Borin copied verbatim other copyrighted elements directly from the Ivy Coach Website.

36. Each time Ivy Coach discovered Defendants College-Connections and Borin infringing its copyrighted works, Ivy Coach representatives would confront Borin. Each time Borin would admit her mistake, apologize in writing, and

1 assure Ivy Coach the plagiarizing was an inadvertent oversight. Borin
 2 would ultimately agree to take down the copied works and to try to
 3 implement procedures to ensure this would not happen again.

4 37. But the copyright infringement did not stop. What might have been a
 5 mistake once, maybe twice, became what can only be described as an
 6 intentional, inexcusable pattern and practice of anti-competitive commercial
 7 conduct all perpetrated in an effort to promote, advertise and market the
 8 College-Connections' brand and Borin's services, and to divert potential
 9 customers away from Ivy Coach and Taylor.

10 **COLLEGE CONNECTION AND BORIN COPY THE**
 11 **"ORIGINAL ARTICLE" AND PASS IT, AND THE IVY COACH**
 12 **METHOD, OFF AS THEIR OWN CREATION**

13 38. As part of her above-referenced pattern and practice, commencing on or
 14 about February 16, 2016, Jeannie Borin, operating as an employee and/or
 15 owner of College-Connections, (a) copied and published the "Original
 16 Article" — its title and every word therein — verbatim, (b) changed the
 17 author's name from "Bev Taylor" to "Jeannie Borin," (c) removed the
 18 Copyright Management Information affixed to the Original Article and
 19 replaced it with fictitious and fraudulent Copyright Management
 20 Information, *and* (d) published the Original Article as a new article
 21 (hereafter the "Copied Article") in, without limitation, *The Huffington Post*
 22 web-newspaper (see www.huffingtonpost.com), on the College-Connections
 23 advertising and marketing website (see www.college-connections.com), and
 24 on the Tier One advertising and marketing website (see [http://](http://www.tieronetutors.com/how-applications-are-evaluated-and-decisions-are-made/)
 25 [www.tieronetutors.com/how-applications-are-evaluated-and-decisions-are-](http://www.tieronetutors.com/how-applications-are-evaluated-and-decisions-are-made/)
 26 [made/](http://www.tieronetutors.com/how-applications-are-evaluated-and-decisions-are-made/)) in a directed effort to promote and advertise College-Connections
 27 and Jeannie Borin's own college advising business.
 28

1 39. Where the Original Article had advertising and social media links to Ivy
2 Coach, the Ivy Coach Website, and to Taylor's email address, the Copied
3 Article welcomed all readers / prospective clients who may have liked the
4 contents of the Copied Article, and/or who wanted to implement the Ivy
5 Coach Method, to contact College-Connections and Borin for all of their
6 college advising needs.

7 40. College-Connections and Borin's most recent acts of plagiarism began on or
8 about February 16, 2016, and they continue to this day — severely
9 damaging Ivy Coach's reputation, its ability to generate profits, and its
10 ability to retain an undiluted association with the Ivy Coach Method.
11 Current, former, and prospective clients seeking college advising
12 consultation, who had come to associate the Ivy Coach Method with Ivy
13 Coach and Taylor, were now being misled with fraudulent and misleading
14 advertising statements regarding corporate origin and individual authorship
15 including that: (a) the twelve-part Ivy Coach Method was College-
16 Connections and Borin's work product; (b) the Ivy Coach Method could be
17 best accessed and implemented through engaging College-Connections'
18 services; *and* (c) the detailed and copyrighted description of the Ivy Coach
19 Method contained in the Copied Article was written by Jeannie Borin, its
20 labeled author, and its origin should be associated with her company,
21 College-Connections.

22 41. When College-Connections and Borin copied the Original Article's exact
23 contents, passing them off as an original article written by Borin and
24 describing their consulting methodology, they did not do so for a
25 newsworthy or educational purpose, or to discuss a topic of public
26 importance. Rather, in the course of conducting their business operations,
27 they copied the Original Article, replaced Ivy Coach's name with College-
28 Connections', and Bev Taylor's name with Jeannie Borin, and then

published it as the “Copied Article” in a web-based newspaper, The Huffington Post, and at least two other marketing websites including their own, for commercial purposes designed to market and promote College-Connections and Borin's services.

42. When Ivy Coach made contact with College-Connections and Borin first in 2007 and then in 2012 notifying them of their past copyright infringement and other anti-competitive activities and their negative impact on Ivy Coach, Ivy Coach made it clear that no such acts were (or ever going to be) authorized or permitted.

43. Defendants College-Connections and Borin published the “Copied Article” in The Huffington Post in 2016 without any permission, license or consent from Ivy Coach, or its employees, agents or representatives.

DEFENDANT TIER ONE TUTORS

44. Ivy Coach is informed and believes and thereon alleges that, as part of a broader effort to advertise and market College-Connections, Borin entered into a strategic alliance or other form of joint venture with Tier One.

45. Tier One’s primary commercial activities relate to tutoring services for students in connection with general academic matters and preparation for the SAT, ACT and other college and graduate admissions testing. Ivy Coach, in addition to college admissions advising, also provides SAT, ACT and all other forms of academic tutoring and as such, is a direct competitor to Tier One.

46. As part of their commercial relationship, College-Connections and Borin agreed to promote and refer clients to Tier One and its businesses, and Tier One agreed to do the same for College-Connections and Borin. As part of this relationship, on or about March 14, 2016, College-Connections and Borin encouraged, enabled or otherwise caused Tier One to publish, and Tier One did publish, the “Copied Article” on the Tier One marketing website

(see <http://www.tieronetutors.com/how-applications-are-evaluated-and-decisions-are-made/>) (the “Tier One Website”). College-Connections, Borin, and Tier One colluded to, and did, infringe Ivy Coach’s copyrights in the Original Article by publishing the Copied Article with College-Connections and Borin’s name as the author, copyright owner and originators of the contents of the Copied Article. Adjacent to the versions of the Copied Article published on the Tier One Website are contact and solicitation references to College-Connections, Borin and Tier One. Once again, in publishing the Copied Article on the Tier One Website, Borin and Tier One removed Ivy Coach’s original Copyright Management Information and replaced it with Borin and College-Connections’ own misleading and fraudulent Copyright Management Information.

**COLLEGE CONNECTIONS AND BORIN’S INFRINGEMENT
COMPRISED COMMERCIAL ADVERTISING LANGUAGE**

47. The “College” section on The Huffington Post website, and the College-Connections and Tier One Websites, all specifically target college-bound readers and their parents. When College-Connections and Borin published the Copied Article on the College-Connections, The Huffington Post and the Tier One websites, they did so with the intent and desire that it be read by millions of potential college applicants (and/or their parents) who would come to associate the twelve-point Ivy Coach Method with College-Connections (Borin) brand as opposed to that of its true creator, Ivy Coach (and Taylor). Their goal in each instance was to advertise to, and solicit, a targeted demographic of potential clients desiring college admissions consulting services from the company that was purporting to have created the Ivy Coach Method and the Copied Article. Their goal was to divert potential customers from Ivy Coach, to College-Connections. This is exactly what occurred.

1 48. On or about August 1, 2016, Ivy Coach sent College-Connections and Borin
2 a letter (the “Cease and Desist”) in which it demanded College-Connections
3 and Borin stop infringing its copyright in and to the Original Article and
4 making false representations that they were the creators of, or in any way
5 associated with, the twelve-point Ivy Coach Method outlined in the Copied
6 Article.

7 49. After the Cease and Desist letter was sent, Borin admitted in written
8 communications sent to Ivy Coach that she had in fact accessed and
9 infringed the copyright in Ivy Coach’s Original Article in her advertising and
10 promotion efforts on the College-Connections, The Huffington Post and Tier
11 One websites. Yet at no point did College-Connections or Borin take any
12 action to correct the record publicly in a manner equivalent in scope and
13 effect to their original advertising language and to retract the Copied Article
14 from The Huffington Post or the Tier One websites.

15 50. Ivy Coach was forced to contact The Huffington Post on August 2, 2016 to
16 demand it remove the Copied Article from its archived web pages. The
17 Article’s body was removed but as of the date of filing this Complaint, the
18 title of the Copied Article still appears as an archived article on The
19 Huffington Post, indicating it was authored by Borin.

20 51. As of the date of filing this Complaint, the Copied Article still appears on the
21 Tier One Website, soliciting all readers to contact College-Connections and
22 Borin should they require college advising services from the person and
23 entity that “authored” the Copied Article.

24 //

25 //

26 //

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28 //

COUNT I

DIRECT INFRINGEMENT OF COPYRIGHT

(17 U.S.C. §§ 106 and 501)

By Ivy Coach Against Defendants College-Connections and Borin

52. Ivy Coach incorporates herein by this reference each and every averment contained in paragraphs 1 through 51, inclusive.

53. Through their conduct averred herein, each of Defendants College-Connections and Borin directly infringed Ivy Coach's copyright in the Original Article in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 *et seq.* and 501.

54. Ivy Coach Registered the copyright for the Original Article in accordance with the Copyright Act prior to filing this Complaint. The contents of the Original Article are copyrightable subject matter under the Copyright Act, 17 U.S.C. §101 *et seq.*, and were not, and have never been, in the public domain.

55. As of August 4, 2004, Ivy Coach owned, and had exclusive control to, the copyright in and to the Original Article and its elements including the detailed outline of The Ivy Coach Method. At no point has Ivy Coach ever licensed or otherwise granted to any third party any consent, permission or other right to commercially exploit any element of the Original Article or The Ivy Coach Method.

56. Defendants College-Connections and Borin infringed the copyrights in and to Ivy Coach's Original Article when commencing on or about February 16, 2016 (on the College-Connections and The Huffington Post websites) and March 14, 2016 (on the Tier One website) they copied verbatim, reproduced, distributed and publicly displaying the title and text of the Original Article, without approval or authorization of Ivy Coach in violation of the Copyright Act, 17 U.S.C. 106 *et seq.*, and 501.

1 57. Defendants College-Connections and Borin knew the Original Article
2 belonged to Ivy Coach as all lawfully published copies of the Original
3 Article prominently displayed Ivy Coach's original Copyright Management
4 Information.

5 58. Ivy Coach is informed and believes and on that basis alleges Defendants
6 College-Connections and Borin's acts of infringement by, without limitation,
7 copying verbatim, reproducing, publishing and exploiting for commercial
8 gain the Original Article in the form of the Copied Article as a means to
9 advertise and promote their business as alleged herein were willful,
10 intentional and purposeful within the meaning of the Copyright Act, and in
11 disregard of and with indifference to Ivy Coach's exclusive rights.

12 59. As a result of their wrongful conduct, College-Connections and Borin are
13 liable to Ivy Coach for copyright infringement pursuant to 17 U.S.C. § 501
14 and Ivy Coach is entitled to recover damages, which include its losses and
15 any and all profits Defendants have made as a result of its wrongful conduct
16 pursuant to 17 U.S.C. § 504. As a direct and proximate result of Defendants
17 College-Connections and Borin's infringement, Ivy Coach is entitled to
18 damages in an amount to be proven at trial.

19 60. Ivy Coach has suffered, and will continue to suffer, substantial losses
20 including, but not limited to, damage to its business reputation and goodwill.

21 61. Ivy Coach is entitled to Defendants College-Connections and Borin's unjust
22 profits, gains and advantages attributable to the alleged infringement,
23 pursuant to 17 U.S.C. § 504(b), including an accounting of and a
24 constructive trust with respect to such profits.

25 62. Defendants College-Connections and Borin will likely continue to realize
26 unjust profits, gains and advantages as a proximate result of their ongoing
27 infringement as alleged herein if each is not prohibited by this Court from
28 continuing their infringing activities.

63. As a direct and proximate result of the foregoing alleged acts and conduct, Ivy Coach has sustained and will continue to sustain substantial, immediate, and irreparable injury, for which there is no adequate remedy at law. Ivy Coach is informed and believes and on that basis alleges that unless enjoined and restrained by this Court, during the pendency and following the disposition of this action, Defendants College-Connections and Borin will continue to infringe Ivy Coach's rights in the Original Article. Accordingly, Ivy Coach is entitled to preliminary and permanent injunctive relief to restrain and enjoin Defendants' continuing infringing conduct.

COUNT II

VIOLATION OF THE DIGITAL MILLENNIUM COPYRIGHT ACT

(17 U.S.C. §1202, 1203)

By Ivy Coach against Defendants College-Connections and Borin

64. Ivy Coach incorporates herein by this reference each and every averment contained in paragraphs 1 through 51, inclusive.

65. The Original Article is an original work of authorship subject to the full protection of the United States copyright laws.

66. Ivy Coach is the sole and exclusive owner of all rights, title, and interest in and to the copyrights in the Original Article.

67. The Original Article contained Copyright Management Information as defined in 17 U.S.C. § 1202(c)(1)-(3), (6), including: the title and other information identifying the work; the name of, and other identifying information about, the author of the work; the name of, and other identifying information about, the copyright owner of the work; and the terms and conditions for use of the work.

68. Ivy Coach published the Original Article on August 4, 2004 including the following well-delineated and prominently displayed Copyright Management Information: (a) Ivy Coach's title for the work; (b) an

1 identification of “Bev Taylor” as the author or creator of the work; (c)
2 “Copyright (c) 2004 Ivy Coach, Inc.,” (d) a conspicuous link to the Ivy
3 Coach’s and Bev Taylor’s main website and other social media pages, which
4 provides information indicating Ivy Coach’s intention to be contacted with
5 any inquiries into the Original Article; *and* (e) a rights advisory indicating
6 “ALL RIGHTS RESERVED” signifying Ivy Coach’s intention that the
7 Original Article may not be used by any third party without first obtaining
8 prior consent.

9 69. In violation of 17 U.S.C. § 1202(b), in publishing the Copied Article on the
10 College-Connections, The Huffington Post and the Tier One websites as
11 alleged herein, Defendants College-Connections and Borin intentionally
12 removed or altered the prominently displayed Copyright Management
13 Information in the Original Article, knowing or having reasonable grounds
14 to know that doing so would induce, enable, facilitate, or conceal an
15 infringement of a right under Title 17 of the United States Code. At no point
16 did Ivy Coach ever consent to, or otherwise implicitly or expressly
17 authorize, such acts or omissions.

18 70. In violation of 17 U.S.C. § 1202(a), Defendants College-Connections and
19 Borin, knowingly and with the intent to induce, enable, facilitate, or conceal
20 infringement, have included Copyright Management Information in the
21 Copied Article that is false by removing Ivy Coach’s original Copyright
22 Management Information, and replacing it with misleading and fraudulent
23 Copyright Management Information including, without limitation, notices of
24 copyright, authorship and origination by Defendants College-Connections
25 and Borin.

26 71. In violation of 17 U.S.C. § 1202(a), Defendants College-Connections and
27 Borin, knowingly and with the intent to induce, enable, facilitate, or conceal
28 infringement, have distributed Copyright Management Information in the

1 Copied Article that misleads readers and consumers of the Copied Article
 2 that the Copied Article and the Ivy Coach Method was written by Borin,
 3 when in fact it was written by Bev Taylor and owned by Ivy Coach.

4 72. In violation of 17 U.S.C. § 1202(b), Defendants College-Connections and
 5 Borin, without the authority of the copyright owner, have distributed on the
 6 College-Connections, the Huffington Post and the Tier One websites false
 7 Copyright Management Information when copying the Original Article
 8 knowing that said Copyright Management Information was altered without
 9 authority of the rightful copyright owner, knowing or having reasonable
 10 grounds to know that doing so would induce, enable, facilitate, or conceal an
 11 infringement of any right under Title 17 of the United States Code.

12 73. Defendants College-Connections and Borin have misrepresented the terms
 13 of use of the Original Article, which is another example of providing false
 14 Copyright Management Information.

15 74. Ivy Coach is a “person injured” by Defendants College-Connections and
 16 Borin’s violations of Section 1202, thereby qualifying it as a person who
 17 may bring a civil action for such violations under Section 1203.

18 75. As a direct and proximate result of the infringements by Defendants
 19 College-Connections and Borin’s, Ivy Coach is entitled to damages equal to
 20 Defendants College-Connections and Borin’s income generated from such
 21 infringing acts or omissions in amounts to be proven at trial and which are
 22 not currently ascertainable.

23 **COUNT III**

24 **VICARIOUS INFRINGEMENT OF COPYRIGHT**

25 **(17 U.S.C. §§ 106 and 501)**

26 **By Ivy Coach Against Defendant Tier One Tutors, Inc.**

27 76. Ivy Coach incorporates herein by this reference each and every averment
 28 contained in paragraphs 1 through 51, inclusive.

1 77. Through its conduct as averred herein including, without limitation, its
2 knowing, willful and purposeful publication of the Copied Article on its
3 exclusively owned and operated website, Defendant Tier One is vicariously
4 liable for (a) copyright infringement of the Original Article under 17 U.S.C.
5 §§ 106 and 501, and (b) violation of the Digital Millennium Copyright Act
6 under 17 U.S.C. §1202, 1203.

7 78. Defendant Tier One has, and at all times had, (a) the right and ability to
8 supervise and control what matter and works were published on its Tier One
9 Website, *and* (b) the right and ability to supervise and control infringing
10 conduct of Defendants College-Connections and Borin as alleged herein in
11 connection with the publication of the Copied Article on the Tier One
12 Website.

13 79. Alternatively, Defendant Tier One failed, or refused, to exercise sufficient
14 supervision and control over the Tier One Website to the extent required by
15 the law because, on or about March 14, 2016, the Tier One Website did in
16 fact commence its ongoing publication of the Original Article in the form of
17 the Copied Article without Ivy Coach's or Taylor's permission or consent.

18 80. As a direct and proximate result of Tier One's acts or omissions as alleged
19 herein, Defendant Tier One has violated Ivy Coach's exclusive copyright in
20 the Original Article by, without limitation, displaying, publishing, copying,
21 distributing, and commercially exploiting the title and text of the Original
22 Article without Ivy Coach's authorization in violation of the Copyright Act,
23 17 U.S.C. 106 et seq., and 501. Additionally, as a direct and proximate
24 result of Tier One's acts or omissions as alleged herein, Defendant Tier One
25 has violated Ivy Coach's exclusive rights in and to the Copyright
26 Management Information that was affixed to and incorporated into the
27 Original Article pursuant to 15 U.S.C. § 1125(a) and 1202(c)(1)-(3), (6).
28

81. Defendant Tier One drew new clients to itself and College-Connections, and otherwise derived a direct financial benefit, as a result of the act of publishing, or permitting the publication of, the Copied Article on the Tier One Website in violation of Ivy Coach's exclusive rights under the Copyright Act and the Digital Millennium Copyright Act. As a result, Tier One reaped, without limitation, advertising revenues, increased website traffic, and new client consulting fees and referral fees from College-Connections and Borin as a result of its publication of the Copied Article on the Tier One Website.

82. Defendant Tier One's acts and omissions of vicarious copyright infringement as alleged herein were willful, and in flagrant disregard of, and with indifference to, Ivy Coach's exclusive copyrights in the Original Article.

83. As a direct and proximate result of the vicarious copyright infringements by Defendant Tier One as alleged herein, Ivy Coach is entitled to damages equal to Defendants' income generated from such infringing acts or omissions in amounts to be proven at trial and which are not currently ascertainable.

84. As a direct and proximate result of the foregoing acts and omissions, Ivy Coach has sustained and will continue to sustain substantial injury. Unless such acts or omissions are enjoined and restrained by this Court, Defendant Tier One Tutors will continue to infringe Ivy Coach's rights in their copyrighted works. Ivy Coach is entitled to preliminary and permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff The Ivy Coach, Inc. prays for judgment against Defendants, and each of them, jointly and severally, as follows:


1. For damages in such amount as may be found, or as otherwise permitted by law;

REQUEST FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff,
The Ivy Coach, Inc., requests a trial by jury.

Date: June 30, 2017

KULIK GOTTESMAN SIEGEL & WARE, LLP

BY: 
Kirk Edward Schenck,
Attorneys for The Ivy Coach, Inc.